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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,430	03/29/2002	Aart Zeger van Halteren	47161-00031USPX	3407

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CHICAGO, IL 60606

EXAMINER

LE, HUYEN D

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 08/27/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

08/980,430

Applicant(s)

BAUMERT ET AL

Examiner

HUYEN D. LE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-26 is/are pending in the application.
- 4a) Of the above claim(s) 12-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 12-26 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 8-11, drawn to a coil assembly for an electroacoustic transducer, classified in class 381, subclass 410.
  - II. Claims 12-23, drawn to an apparatus of an electroacoustic assembly, classified in class 381, subclass 418.
  - III. Claims 24-25, drawn to method of assembling an electroacoustic transducer, classified in class 29, subclass 594.
  - IV. Claim 26, drawn to method of positioning a movable armature leg within a coil opening, classified in class 29, subclass 745.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and Inventions II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the coil assembly does not require an armature. The subcombination has separate utility such as an armature that has a first leg, and the circuit board that has an opening adapted to receive the first leg of the armature.

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3. Inventions I, II, III and IV are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the coil assembly and the electroacoustic assembly can be made by another and materially different process.

4. Inventions III and IV are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the method of positioning a movable armature leg does not require the positioning a magnet assembly adjacent to the circuit board, and the armature leg extends through a gap between first and second magnets. The subcombination has separate utility such as a magnet assembly adjacent to the circuit board and the armature leg that extends through a gap between first and second magnets.

5. Because these inventions are distinct for the reasons given above, the search required for Group I is not required for Groups II, III and IV, have acquired a separate status in the art because of their recognized divergent subject matter, and have acquired a separate status in the

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art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Justin Swindells on August 7, 2003 and August 12, 2003 a provisional election was made without traverse to prosecute the invention of Group I, claims 8-11. Affirmation of this election must be made by applicant in replying to this Office action. Claims 12-26 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Mostardo (U.S. patent 5,193,116).

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Regarding claim 8, Mostardo teaches a coil assembly for an electroacoustic transducer that comprises a coil (36) and a circuit board (38, 52, 54) as claimed (figures 1, 2, 5, 6).

Regarding claim 9, as broadly claimed, the circuit board (38, 52, 54) is flexible (figures 2, 5 and 6).

Regarding claim 10, the circuit board (52) is rigid (col. 3, lines 52-53).

10. Claims 8 and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Salvage et al. (U.S. patent 5,708,721).

Regarding claim 8, Salvage teaches a coil assembly for an electroacoustic transducer that comprises a coil (16) and a circuit board (18) as claimed (figures 1 and 2). Since the Applicant does not specifically claim the characteristics and the functions of a circuit board, as broadly claimed, the examiner has considered the pole assembly (18) as a circuit board of the magnetic circuit in the electroacoustic transducer.

Regarding claim 10, the circuit board (the pole 18) is rigid.

Regarding claim 11, the circuit board (18) includes an opening that is substantially aligned with the coil opening (the openings for receiving the reed 15).

11. Claims 8 -11 are rejected under 35 U.S.C. 102(b) as being anticipated by Sternfeld et al. (U.S. patent 3,502,822).

Regarding claim 8, Sternfeld teaches a coil assembly for an electroacoustic transducer that comprises a coil (38) having a coil opening (39), and a circuit board (41, 42, 43, 44) as claimed (figures 1, 3 and 6-8).

Regarding claim 9, the circuit board (41, 42, 43, 44) is flexible (figure 6, 6A) for affixing to the magnets (52, 53).

Regarding claim 10, the circuit board (41, 42, 43, 44) is made of rigid material.


Regarding claim 11, the circuit board (41, 42, 43, 44) includes an opening that is substantially aligned with the coil opening (figures 1, 6, 6A).

***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN D. LE whose telephone number is (703)305-4844. The examiner can normally be reached on 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5631.

  
HL  
August 21, 2003

  
HUYEN LE  
PRIMARY EXAMINER